

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN VANFOSSAN,
Plaintiff,
v.
JOHN AMAYA, et al.,
Defendants.

Case No. 1:20-cv-00173-ADA-EPG (PC)

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff Benjamin VanFossan is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The Court previously determined that this case would benefit from a settlement conference and set a settlement conference for November 6, 2023. (ECF No. 81). The Court was notified by Plaintiff that the date would interfere with his employment and college courses and granted his motion to continue the settlement conference. (ECF No. 84). The Court now resets the settlement conference before Magistrate Judge Christopher D. Baker. The settlement conference will be conducted by remote means, with all parties appearing by Zoom video conference. The Court will issue the necessary transportation order in due course.

In accordance with the above, IT IS ORDERED that:

1. This case is set for a settlement conference before Magistrate Judge Christopher D.

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2 Baker on January 17, 2024, at 10:00 a.m. The settlement conference will be conducted
3 by remote means, with all parties appearing by Zoom video conference. Defense
4 counsel shall arrange for Plaintiff's participation. The Zoom settlement conference
5 invitation will be distributed the week prior, or counsel may contact Susan Hall,
6 Courtroom Deputy for Magistrate Judge Christopher D. Baker, at
7 SHall@caed.uscourts.gov. Any difficulties concerning the Zoom video conference, or
8 connecting to the Zoom video conference, shall immediately be reported to Susan
9 Hall. The Court will issue a writ of *habeas corpus ad testificandum* to allow for
10 Plaintiff's participation, as appropriate.

- 11 2. Each party or a representative with full authority to negotiate and enter into a binding
12 settlement agreement shall participate in the conference. The failure of any counsel,
13 party, or authorized person subject to this order to participate in the conference may
14 result in the imposition of sanctions.
- 15 3. Consideration of settlement is a serious matter that requires thorough preparation prior
16 to the settlement conference. Participants in the conference must be prepared to
17 discuss the claims, defenses, and damages.
- 18 4. If parties have not already engaged in informal settlement negotiations, parties shall do
19 so as follows: No later than **December 20, 2023**, Plaintiff shall submit to Defendants,
20 by mail, a written itemization of damages and a meaningful settlement demand,
21 including a brief explanation of why such settlement is appropriate, which shall not
22 exceed 5 pages. No later than **December 27, 2023**, Defendants shall respond, by mail
23 or telephone, with an acceptance of Plaintiff's offer or a meaningful counteroffer,
24 including a brief explanation of why such settlement is appropriate. If settlement is
25 achieved, the parties shall file a Notice of Settlement as required by Local Rule 160.
- 26 5. If settlement is not achieved informally, the parties shall submit confidential
27 settlement conference statements no later than **January 3, 2024**. Defendants shall
28 email their statement to CDBorders@caed.uscourts.gov. Plaintiff shall mail his

statement, clearly captioned “Confidential Settlement Conference Statement,” to United States District Court, Attn: Magistrate Judge Christopher D. Baker, 510 19th Street, Suite 200, Bakersfield, CA 93301. Once the parties have submitted their statements, they shall file a “Notice of Submission of Confidential Settlement Conference Statement” with the Court. The confidential settlement conference statements themselves **should not be filed** with the Court **nor served** on the opposing party.

6. The confidential settlement conference statements should be no longer than 5 pages in length and include:

- a. A brief statement of the facts of the case;
- b. A brief statement of the claims and defenses of the case, *i.e.*, the statutory, constitutional, or other grounds upon which the claims are founded;
- c. A forthright discussion of the strengths and weaknesses of the case and an evaluation of the likelihood of prevailing on the claims or defenses, from the party’s perspective, and a description of the major issues in dispute;
- d. An estimate of the party’s expected costs and time to be expended for further discovery, pretrial matters, and trial;
- e. A summary of past settlement discussions, including the informal settlement negotiations required above; a statement of the party’s current position on settlement, **including the amount the party would offer and accept to settle** (in specific dollar amounts); and a statement of the party’s expectations for settlement discussions;
- f. An estimate of any restitution allocated to Plaintiff, or other financial obligation assigned to Plaintiff, that would affect the parties’ settlement discussions;
- g. A list of the individuals who will be attending the conference on the party’s behalf, including names and, if appropriate, titles; and,
- h. If a party intends to discuss the settlement of any other actions or claims not raised

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2 in this suit, a brief description of each action or claim, including case number(s), as
3 applicable.

4 7. The Clerk of the Court is directed to serve a copy of this order on Mule Creek State
5 Prison via fax at (209) 274-5018 or via email.

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7 IT IS SO ORDERED.

8 Dated: October 25, 2023

/s/ Eric P. Shoup
9 UNITED STATES MAGISTRATE JUDGE